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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,849	03/04/2004	Lisa Diane Crislip Wilkinson	24295.00	5306

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EXAMINER

BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/791,849

Applicant(s)

WILKINSON, LISA DIANE CRISLIP

Examiner

Michael G. Bogart

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-9 and 11-16 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04 March 2004</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7, 8 and 11-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikuchi (US 5,921,974 A) in view of Valentin *et al.* (USPAP 2002/0183706 A1).

Regarding claim 1, Kikuchi teaches a diaper (1) with legs (5), comprising:

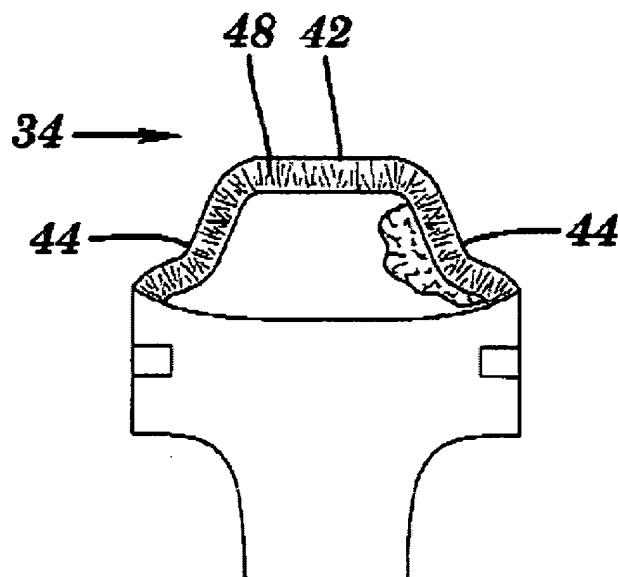
a sheet of material having a central portion defining an interior surface and an exterior surface, a front waist panel (2), a rear waist panel (3) and a crotch region (area between (2) and (3)) connecting the waist panels (2, 3), the waist panels (2, 3) defining a waist opening (13), the crotch region defining a pair of thigh openings (defined as the very top portion of legs where they open to the interior crotch portion of the diaper);

two legs (5) attached to the thigh openings of the central portion;  
elastic material disposed between the lower part of the legs (14) and at least a portion of the thigh openings (see figure 9, below).

[illegible]

Valentin *et al.* teach a diaper (34) having rear, and optionally, front, waist arches (42)(see figure 2D, below)(¶s 0065-0069). These waist arches protect against leakage (¶ 0008).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to add the waist arches of Valentin *et al.* to the diaper of Kikuchi in order to provide enhanced protection from leakage

**FIG. 2D**

Regarding claims 2 and 3, Valentin *et al.* teach elastic material (48) incorporated into the upper edge of the arch(es) (figure 2D).

Regarding claim 4, Kikuchi teaches a pair of fasteners (11) disposed on the rear waist panel (3) for fixing the rear waist panel (3) to the front waist panel (2)(figure 9).

Regarding claim 7, Kikuchi teaches absorbent material (8) disposed between the backsheets (6) and topsheets (7) of the legs (5) and central portion.

Regarding claim 8, Kikuchi teaches an absorbent core (8) arranged longitudinally in the central portion (figure 9).

Regarding claim 11, Kikuchi teaches a front waist panel (2) permanently secured (11) to the rear waist panel (3)(figure 9).

Regarding claim 12, Kikuchi teaches an elastic gather (19) at the bottom of the legs (5)(figure 9).

Regarding claim 13, Kikuchi teaches elastic material which joins the legs (5) the the crotch portion at thigh openings (see marked figure 9, above).

Regarding claims 14 and 15, Valentin *et al.* teach elastic material (48) incorporated into the upper edge of the arch(es)(figure 2D).

Regarding claim 16, Kikuchi teaches an elastic gather (19) at the bottom of the legs (5)(figure 9).

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikuchi and Valentin *et al.* as applied to claims 1-4, 7, 8 and 11-16 above, and further in view of Weisman *et al.* (4,673,402).

Kikuchi and Valentin *et al.* do not teach multiple layered absorbent cores.

Weisman *et al.* teach multiple layered absorbent cores which are used to provide enhanced absorption and wicking (Abstract).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the multiple absorbent core layers of Weisman *et al.* with the diaper of Kibuchi and Valentin *et al.* in order to enhance the diapers absorbing ability.

#### ***Allowable Subject Matter***

Claims 5, 6 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

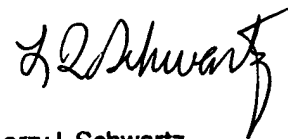
In the event the examiner is not available, the examiner's supervisor, Larry Schwartz may be reached at phone number (571) 272-4390. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart  
9 December 2004



Larry I. Schwartz  
Supervisory Patent Examiner  
Group 3700